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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,392	06/20/2007	Klaus Worgull	3564	1516
278	7590	11/10/2010	EXAMINER	
MICHAEL J. STRIKER 103 EAST NECK ROAD HUNTINGTON, NY 11743			HALL, COREY JOHN	
			ART UNIT	PAPER NUMBER
			3743	
			NOTIFICATION DATE	DELIVERY MODE
			11/10/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

striker@strikerlaw.com

Office Action Summary

Application No.

10/563,392

Applicant(s)

WORGULL ET AL.

Examiner

COREY HALL

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-6 and 9-13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 13 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Springer (US Patent No. 4,232,454 previously cited in notice of references cited mailed 7/1/2009).

4. Regarding claims 13 and 10, Springer discloses a hand hair dryer (100, fig. 2) comprising: an electric fan (103, fig. 2) located in a housing portion (101, fig. 2); a first handle grip (119, fig. 2) comprising operator control elements (117, 118, fig. 2) and connected to the housing portion (101, fig. 2); and a barrel portion (110, fig. 2) containing an electric heater (116, fig. 2) and connected to the housing portion (101, fig. 2) at an angle of approximately 90° with respect to said first handle grip (119, fig. 2) wherein: said electric heater (116, fig. 2) is located in line with said electric fan (103, fig. 2) for generating an air stream (fig. 2 showing an air stream with arrows) from said barrel portion (110, fig. 2); said barrel portion (110, fig. 2) embodied as a second handle grip (fig. 2 showing the barrel portion 110 which is inherently capable of being used as a second handle grip and where this language is given little weight because it is functional language and the apparatus claim limitations read on the prior art); a cold air combination switch (117, fig. 2, col. 3, lines 22-23 describing the heater switch 117 as changing the heater wattage and col. 4, lines 6-10 describing switch 117 as being used to turn the heat on)

is located on the housing portion (101, fig. 2) at the angle formed by the first handle grip (119, fig. 2) and the barrel portion (110, fig. 2); and said cold air combination switch (117, fig. 2) is configured to be actuated selectively from the first (119, fig. 2) or second (110, fig. 2) handle grip (showing a cold air combination switch 117 at the claimed location on the housing 101 capable of being actuated from 119 and 110 and where this claim language is given little weight because it is functional language and the apparatus claim limitations read on the prior art), by direct contact between the cold air combination switch (117, fig. 2) and one finger of a hand (where it is implicit that a user of a hand held hair dryer would operate the switch 117 using one finger of a hand) on either the first handle grip (119, fig. 2) or the second (110, fig. 2) handle grip, and wherein the cold air combination switch (117, fig. 2) is a one-legged toggle switch (fig. 1 at 117 showing a one-legged toggle switch).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Springer (US Patent No. 4,232,454) as applied to claim 13 above, and further in view of Gallone (US Patent No. 5,349,147).
7. In regards to claim 11, Springer discloses the claimed invention including a cold air combination switch (117, fig. 2), except for wherein the switch is a two-legged toggle switch. However, Gallone teaches wherein a switch (2, fig. 1) is a two-legged (15, fig. 1 showing two legs 15 of a toggle switch) toggle switch in order to provide a water-splash protected electric switch that can establish or break continuity between contacts within the switch casing (abstract,

lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Springer reference, to include wherein the switch is a two-legged toggle switch, as suggested and taught by Gallone, for the purpose of providing a water-splash protected electric switch that can establish or break continuity between contacts within the switch casing. The Applicant is simply substituting one known element for another to obtain predictable results. One would be motivated to combine Springer with Gallone because Gallone teaches a two-legged toggle switch that provides a water-splash protected switch and Springer could be similarly improved by simply substituting its toggle switch for a two-legged toggle switch that provides a water-splash protected switch, thus preventing the user from electrical shock by the switch if water, for example from a sink, is splashed onto the switch.

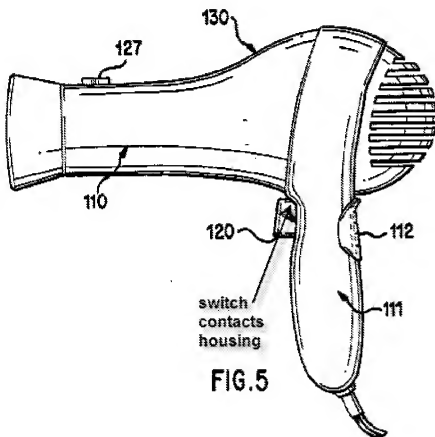
8. Claims 13, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler et al. (US Patent No. 5,727,331 hereinafter Thaler '331 previously cited in notice of references cited mailed 2/2/2009) in view of Thaler et al. (US Patent No. 4,711,988 hereinafter Thaler '988 previously cited in notice of references cited mailed 6/9/2010).

9. Regarding claims 13, 5, and 9, Thaler '331 discloses a hand hair dryer (fig. 5) comprising: . . . a housing portion (fig. 5 at 130); a first handle grip (111, fig. 5) comprising operator control elements (112, 120, fig. 5) and connected to the housing portion (fig. 5 at 130); and a barrel portion (110, fig. 5) . . . and connected to the housing portion (fig. 5 at 130) at an angle of approximately 90° (fig. 5 showing an angle of approximately 90°) with respect to said first handle grip (111, fig. 5) . . . an air stream (fig. 4 showing an air stream from the barrel portion) from said barrel portion; said barrel portion (110, fig. 5 showing a barrel portion 110 capable of being used as a second handle grip as shown in figure 4) embodied as a second handle

grip; a . . . switch (120, fig. 5, col. 3, line 66-col. 4, line 2) is located on the housing portion (fig. 5 and Figure A below showing that the switch contacts the housing portion) at the angle (fig. 5 showing the switch 120 at the angle) formed by the first handle grip (111, fig. 5) and the barrel portion (110, fig. 5); and said . . . switch (120, fig. 5) is configured to be actuated selectively from the first or second handle grip (111, 110, fig. 5 showing the switch 120 at the claimed location capable of being actuated from 111 and 110 and where this claim language is given little weight because it is functional language and the apparatus claim limitations read on the prior art), by direct contact between the . . . switch (120, fig. 5) and one finger of a hand (where it is implicit that a user of a hand held hair dryer would operate the switch 120 using one finger of a hand) on either the first handle grip (111, fig. 5) or the second handle grip (110, fig. 5), wherein the second handle grip (110, fig. 5) is shaped cylindrically (fig. 3 showing the second handle grip at 10 being shaped cylindrically), wherein the . . . switch (120, fig. 5) is a pushbutton (fig. 1 at 61 showing that the switch is a pushbutton, col. 2, lines 53-59 describing the switch moving in the direction of arrow 61), except for an electric fan located in a housing portion, containing an electric heater, wherein: said electric heater is located in line with said electric fan for generating an air stream, and a cold air combination switch. However, Thaler '988 teaches an electric fan (12, fig. 1) located in a housing portion (fig. 1 at 10), containing an electric heater (14, fig. 1 showing an electric heater 14 in a barrel portion), wherein: said electric heater (14, fig. 1) is located in line with said electric fan (12, fig. 1) for generating an air stream, and a cold air combination switch (42, fig. 1) in order to provide the electric fan, electric heater and cold air combination switch required and incorporated by reference by Thaler '331 from Thaler '988 (Thaler '331, col. 2, lines 34-56). Therefore, it would have been obvious to one of ordinary skill

in the art at the time of invention was made to modify the Thaler '331 reference, to include an electric fan located in a housing portion, containing an electric heater, wherein: said electric heater is located in line with said electric fan for generating an air stream, and a cold air combination switch, as suggested and taught by Thaler '988, for the purpose of providing the electric fan, electric heater and cold air combination switch required and incorporated by reference by Thaler '331 from Thaler '988. The Applicant is merely combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Thaler '988 because Thaler '988 teaches the electric heater, electric fan, and cold air combination switch required and incorporated by reference by Thaler '331.

Figure A.



10. Claims 2-4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) as applied to claim 13 above, and further in view of Kacriyama (JP 03 009 703 A previously cited in notice of references cited mailed 6/9/2010).

11. In regards to claims 2-4, and 6, Thaler '331 in view of Thaler '988 discloses the claimed invention, except for wherein the second handle grip is heat-insulated, wherein the barrel portion is heat-insulated from the outside, wherein the second handle grip and the barrel portion are embodied as heat-insulated from the outside, and wherein the first and second handle grips are each provided with a nonslip surface. However, Kacriyama teaches wherein the second handle grip is heat-insulated (page 8, lines 8-24 describing achieving heat insulation by making the barrel portion with thicker walls), wherein the barrel portion is heat-insulated from the outside (page 8, lines 8-24 describing achieving heat insulation by making the barrel portion with thicker walls which is in contrast to an internal cold-air conduit), wherein the second handle grip and the barrel portion are embodied as heat-insulated from the outside (fig. 4 showing the entire barrel portion including the second handle grip portion being heat-insulated from the outside, page 8, lines 8-24), and wherein the first (5, fig. 2) and second (4, fig. 2) handle grips are each provided with a nonslip surface (fig. 2 showing antislip ribs on the first 5 and second 4 handle grips, "antislip rib 25" page 8, line 11) in order to provide greater heat insulation to the barrel portion (page 8, lines 8-24) and to prevent slipping (page 8, line 11) when gripping the hair dryer. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include wherein the second handle grip is heat-insulated, wherein the barrel portion is heat-insulated from the

outside, wherein the second handle grip and the barrel portion are embodied as heat-insulated from the outside, and wherein the first and second handle grips are each provided with a nonslip surface, as suggested and taught by Kaeriyama, for the purpose of providing greater heat insulation to the barrel portion and preventing slipping when gripping the hair dryer. The Applicant is merely combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Kaeriyama because Kaeriyama teaches that a hair dryer barrel portion can be cooler when grasped by having the barrel heat insulated and easier to grip by having nonslip surfaces and Thaler '331 could be similarly improved by having its barrel heat insulated and by having nonslip surfaces, thus making the barrel portion even cooler to better ensure that the user is not burned and to better ensure that the user can maintain a good grip on the hair dryer.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) as applied to claim 13 above, and further in view of Paulhus et al. (US Patent No. 4,676,260).

13. In regards to claim 10, Thaler '331 in view of Thaler '988 discloses the claimed invention including a cold air combination switch (120, fig. 5), except for wherein the switch is a one-legged toggle switch. However, Paulhus et al. teaches a switch that is a one-legged toggle switch (20, fig. 1 showing a one-legged toggle heat switch 20 on the housing 12 of a hair dryer) in order to provide a switch in the proximity of a finger of the hand of the operator (col. 2, lines 11-15) and to provide a switch that can turn the heater on or off without having to be held in place by the operator. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include

wherein the switch is a one-legged toggle switch, as suggested and taught by Paulhus et al., for the purpose of providing a switch in the proximity of a finger of the hand of the operator and providing a switch that can turn the heater on or off without having to be held in place by the operator. The Applicant is simply substituting one known element for another to obtain predictable results. One would be motivated to combine Thaler '331 with Paulhus et al. because Paulhus et al. teaches a one-legged toggle heat switch that is close to a finger of the operator for greater ease in operation and does not require the operator to hold it in place and Thaler '331 could be similarly improved by simply substituting its switch for a one-legged toggle heat switch, thus providing a switch that can be operated with ease using a finger and avoiding finger fatigue by providing a switch that does not have to be held in place by the operator.

14. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) as applied to claim 13 above, and further in view of Gallone (US Patent No. 5,349,147).

15. In regards to claim 11, Thaler '331 in view of Thaler '988 discloses the claimed invention including a cold air combination switch (120, fig. 5), except for wherein the switch is a two-legged toggle switch. However, Gallone teaches wherein a switch (2, fig. 1) is a two-legged (15, fig. 1 showing two legs 15 of a toggle switch) toggle switch in order to provide a water-splash protected electric switch that can establish or break continuity between contacts within the switch casing (abstract, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include wherein the switch is a two-legged toggle switch, as suggested and taught by Gallone, for the purpose of providing a water-splash protected electric switch that can

establish or break continuity between contacts within the switch casing. The Applicant is simply substituting one known element for another to obtain predictable results. One would be motivated to combine Thaler '331 with Gallone because Gallone teaches a two-legged toggle switch that provides a water-splash protected switch and Thaler '331 could be similarly improved by simply substituting its switch for a two-legged toggle switch that provides a water-splash protected switch, thus preventing the user from electrical shock by the switch if water, for example from a sink, is splashed onto the switch.

16. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler '331 (US Patent No. 5,727,331) in view of Thaler '988 (US Patent No. 4,711,988) as applied to claim 13 above, and further in view of Berryman (US Patent No. 3,612,824 previously cited in notice of references cited mailed 2/2/2009).

17. In regards to claim 12, Thaler '331 in view of Thaler '988 discloses the claimed invention, except for wherein: a centrally located warm-air conduit and a coaxial cold-air conduit are provided in the barrel portion; the central warm-air conduit is formed by a hollow-cylindrical barrel, in which the heater is located; the coaxial cold-air conduit is formed by the barrel portion and the hollow-cylindrical barrel; and the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan and, by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream outlet is effected from the coaxial cold-air conduit. However, Berryman teaches wherein: a centrally located warm-air conduit (fig. 3 at 97) and a coaxial cold-air conduit (74, fig. 3) are provided in a barrel portion (73, fig. 3); the central warm-air conduit (fig. 3 at 97) is formed by a hollow-cylindrical barrel (66, fig. 3), in which a heater (108, fig. 3) is located; the coaxial cold-air

conduit (74, fig. 3) is formed by the barrel portion (73, fig. 3) and the hollow-cylindrical barrel (66, fig. 3); and the central warm-air conduit (fig. 3 at 97) and the coaxial cold-air conduit (74, fig. 3) are acted upon by a cold air stream of the fan (53, fig. 3) and, by means of the heater (108, fig. 3), a warm air stream outlet is effected out of the central warm-air conduit (fig. 3 at 97), and a cold air stream outlet is effected from the coaxial cold-air conduit (74, fig. 3) in order to prevent the user from being burned due to the heating of the barrel during extended use (col. 2, lines 59-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Thaler '331 in view of Thaler '988 reference, to include wherein: a centrally located warm-air conduit and a coaxial cold-air conduit are provided in the barrel portion; the central warm-air conduit is formed by a hollow-cylindrical barrel, in which the heater is located; the coaxial cold-air conduit is formed by the barrel portion and the hollow-cylindrical barrel; and the central warm-air conduit and the coaxial cold-air conduit are acted upon by a cold air stream of the fan and, by means of the heater, a warm air stream outlet is effected out of the central warm-air conduit, and a cold air stream outlet is effected from the coaxial cold-air conduit, as suggested and taught by Berryman, for the purpose of preventing the user from being burned due to the heating of the barrel during extended use. The Applicant is merely combining prior art elements according to known methods to yield predictable results. One would be motivated to combine Thaler '331 with Berryman because Berryman teaches a hair dryer that reduces the heating of the barrel by using a coaxial cold-air conduit to prevent the user from being burned and Thaler '331 could be similarly improved by having a similar barrel, thus better ensuring that the user is not burned by the barrel.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY HALL whose telephone number is (571)270-7833. The examiner can normally be reached on Monday - Friday, 9AM to 5PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on (571)272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corey Hall/
Examiner, Art Unit 3743
/Kenneth B Rinehart/
Supervisory Patent Examiner, Art Unit 3743